IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 5908 of 2007(C)

OA.604/1998 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM
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PETITIONER:

K. VIDYADHARAN THAMPI, S/O.KRISHNAN NAIR
441, GANDHI NAGAR, ERNAKULAM, KOCHI-20.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS:
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1. INDIAN BANK,
SHANMUGHAM ROAD, ERNAKULAM, REPRESENTED BY ITS BRANCH MANAGER.

2. DEBT RECOVERY TRIBUNAL (KERALA & LAKSHADWEEP), K.S.H.B. BUILDING, PANAMPALLY NAGAR, KOCHI-36, REPRESENTED BY REGISTRAR.

3. THE RECOVERY OFFICER,
DEBT RECOVERY TRIBUNAL (KERALA & LAKSHADWEEP), K.S.H.B. BUILDING, PANAMPALLY NAGAR, KOCHI-36.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.5908 OF 2007-C

Judgment

The Recovery Officer is taking steps to sell the certificate scheduled property. The petitioner submits, he has preferred Ext.P6 petition under Section 27(1) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. Since the tribunal is not sitting, the petitioner prays, this Court may stop the sale which is scheduled to be held today till the DRT considers that application. Section 27(1) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 reads as follows :

> *"27.* ***Stay of proceedings under certificate and amendment or withdrawal thereof*** *: (1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Presiding Officer may grant time for the payment of the amount and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted."*

The above provision would show that the DRT is empowered to grant time for payment of the amount due under the certificate and till the time so granted, it can stay the proceedings for sale also. But, in Ext.P6, the claim of the petitioner is entirely different. The same will be borne out by para 3 of the additional affidavit filed in support of Ext.P6, which reads as follows :

> *"The petitioner's unit has been declared a sick unit by the District Industries Centre, Ernakulam. I submit that the application for revival of the Sick unit is under the consideration of the District Level Rehabilitation Committee, Ernakulam and the same has been referred to the SURP Task Force. Since the Bank has objected to the same I had requested the same to be placed before the DLRC, Ernakulam and I had filed Writ Petition(C) No.4502/07 which was disposed of by the Hon'ble High Court directing the District Collector to take a decision regarding the same expeditiously as per Judgment dated 15.02.2007. Even though I have applied for a copy of the Judgment, the same has not been received till date. I shall produce a certified copy of the Judgment as and when received from the Court."*

The above quoted submission would show that Ext.P6 is not a petition under Section 27(1) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. In view of the above position, no relief can be granted to the petitioner and the Writ Petition is accordingly dismissed.

21.02.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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